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NOTES AND MEMORANDA

THE CLEVELAND STREET RAILWAY SETTLEMENT

On February 17th, 1910, 27,272 voters of Cleveland approved the so-called Tayler grant and 19,235 voted against it. The total vote was not 60 per cent of that cast in October, 1909, when by almost a tie vote the holding plan was rejected[1]; and was only 52 per cent of that cast in the November mayoralty contest of 1907 and 59 per cent of the vote in the election of 1909. Yet the size of the majority, on a very stormy winter day, has been generally taken as a decisive approval of the settlement.

At the start it must be noted that the settlement commonly spoken of as the Tayler Settlement or Tayler Grant, would not have been possible without the many years of fighting by Mayor Johnson. Indeed, tho Mr. Johnson at the last opposed the settlement as not sufficiently favorable to the people, the terms finally secured were much better than those proposed by Judge Tayler himself in his own draft of the grant in the spring of 1909.

In the issue of this Journal for November 1908, it was shown how an unfortunate strike, and some mistakes due in large measure to the ill health of Mr. Johnson, led to the defeat of the holding company plan. A receiver was appointed by Judge R. W. Tayler, of the United States District Court, not because of any proven losses of the Municipal Traction Company but because a referendum had left the rights of all parties in doubt and some means had to be taken to keep the property together pending the refunding

[1] See the present writer's article on The Street Railway Settlement in Cleveland in this Journal, for August, 1908, vol xxii, no 4.

of $2,000,000 of bonds in the summer of 1909. The receivership lasted from November 13th, 1908, until the close of February, 1910. Three cent fares with a cent for a transfer were paid on lines built or belonging to the original three cent fare road (which carried 37 per cent of the passengers) while five cent fares, and free transfers with each other and to the three cent lines, prevailed on the rest of the system. On August 3rd, 1909, the people, by a vote of 34,785 to 31,012, voted down a proposition of Mr. Johnson's to give to a new company bound to three cent fares and free transfers, the lines whose franchises were to expire in January, 1910. The people appeared tired of the struggle and influenced by the fierce and demagogic attacks made by all of the newspapers and most of the large business houses of the city against Mr. Johnson and his propositions.

In the late summer the Council resumed negotiations with the old Cleveland Railway Company and secured further concessions from them. Then both sides left certain points, the most important of which was the valuation, to the arbitration of Judge Tayler.

The ordinance, as finally passed reluctantly by the City Council in December and ratified in February 1910, is an attempt to apply through a city commission the principles and theories of regulation which have underlain the State Public Service Commissions of Massachusetts, New York, and Wisconsin. The attempt was made, however, to carry the principle much further and to provide more definitely for municipal ownership. It is therefore in this regard unique in the world's experiments.

The principal points of the grant, in their order in the franchise, are these: —

(1) While the company must maintain the usual width of pavement between the tracks and a little each side, it is not required to repave nor to pay license taxes on its cars. Relatively to the entire expense, these exemptions are probably not large.

(2) The city has entire control of the schedules and routes of the local and interurban cars, the character and equip-

ment of the cars and in fact all matters of service, save that no more must be required than can be paid for by the maximum rate of fare, as defined elsewhere.

(3) Arbitration upon this and any other matters can be had at any time by either side. Methods for securing the arbitrators and making their awards effective are carefully worked out. No arbitrators, however, can limit the control of the city over the service, schedules, routes, etc.

(4) The Mayor, with the approval of the City Council (of one chamber), appoints a City Commissioner at a salary of $12,000 a year and may remove him at any time without the approval of the Council. This Commissioner, with such accountants and engineers as he may deem necessary, at salaries fixed by him, must be paid by the Street Railway Company, the amount being charged to operating expenses. Not over 1 per cent of the operating expenses of the company can be monthly used for this purpose (at the present time this would allow about $3500 a month). The Commissioner acts as the technical adviser of the City Council, keeps informed as to all costs and character of service and of all the accounts of the company. He occupies rooms in connection with the general offices of the company. Subject to appeal to the arbitration of the committee of standing classifications of accounts of the American Street and Interurban Railway Accountants Association, he may control the matter of keeping their books. Pending any determination by the City Council, and to meet emergencies, he temporarily approves changes in schedules or rules and may under those conditions prevent such changes. He has other duties to be referred to later.

(5) The company must always have such a rate of fare, not more than the maximum, as will provide 5 per cent or whatever per cent is actually paid on its bonded indebtedness and 6 per cent on the rest of the capital value not covered by bonds. This means to-day about 5.75 per cent on the entire capital.

(6) The capital value, so-called, is fixed at the start as $24,091,049.53 or $98,038 per mile. Of this, the bonded

indebtedness is $8,128,000, the capital stock $14,675,600, the remainder is floating debt.

(7) The company may substitute 6 per cent stock for 5 per cent bonds. It cannot issue stock or bonds at less than par without the consent of the city, but may issue at par or incur floating indebtedness for extensions and betterments, carefully defined in the franchise. The company could not be prohibited from further issues of stock or bonds or floating debt; but increase of its capital value is allowed solely for actual increase or improvement of the plant, as a basis for fares or ultimate purchase by the city or others.

(8) The company is allowed 11½ cents per car mile for operating expenses (including the support of the Commissioner and his officers), which is a little more than the expenses of the last year. The company is also allowed for maintenance 4 cents per car mile in the months of December, January, February, March, April and May, 5 cents in November, and 6 cents in the remaining five months, or about 5 cents for the year. This is apparently more than has been spent or written off for maintenance and depreciation on the average during the last five years in any street railway system of over 100 miles; tho, during the last two years, three or four roads have equalled or exceeded that sum. Arbitration, however, can give a larger allowance for both operation and maintenance. The maintenance must keep the road at 70 per cent of its value as a new road.

(9) After paying these amounts and taxes, interest on bonds, and 6 per cent on the balance of the capital value, the company must reduce the fares if there be a surplus, or raise them if there be a deficit, to the end that a (normal) $500,000 cash operating balance may never be diminished below $300,000 and never increased above $700,000.

(10) A sliding scale of fares is provided for a single continuous ride within the city limits at the time of the referendum. On three crosstown lines the passenger is entitled to a double transfer. One child under six years is carried free, if with someone else paying a fare. The schedule or scale of fares has the following ten interesting gradations; —

(*a*) Four cents cash fare, seven tickets for 25 cents, one cent transfer, no rebate

(*b*) Four cents cash fare, seven tickets for 25 cents, one cent transfer, one cent rebate

(*c*) Four cents cash fare, three tickets for ten cents, one cent transfer, no rebate.

(*d*) Four cents cash fare, three tickets for ten cents, one cent transfer, one cent rebate

(*e*) Three cents cash fare, one cent transfer, no rebate.

(*f*) Three cents cash fare, one cent transfer, one cent rebate

(*g*) Three cents cash fare, two tickets for five cents, one cent transfer, no rebate.

(*h*) Three cents cash fare, two tickets for five cents, one cent transfer, one cent rebate

(*i*) Two cents cash fare, one cent transfer, no rebate.

(*j*) Two cents cash fare, one cent transfer, one cent rebate.

This is unique in its precise gradations of fare, but is entirely in harmony with the theory of public regulation. In discussions of our public service commissions, it is usually assumed that they will reduce the charge for gas and electricity and even street railways in accordance with the profits of the company, unless those profits are due to extraordinary zeal and ability of management. As a matter of fact, we know that fares are rarely changed in street railways and not very frequently changed through any public action in the case of lighting.

(11) The ordinance provides that the initial rate of fare shall be a three cent cash fare and a one cent charge for a transfer; in other words, gradation (*e*) in the above schedule. This must continue for at least eight months. If, however, the company has not installed 450 pay enter cars within five months from March 1st, the initial rate of fare must continue for three months beyond the completion of the installation of the 450 pay enter cars, — this number of cars being about half of the total number now owned by the company. After the initial period is over, fares must be raised or lowered as may be necessary to provide the bonded interest and the 6 per cent dividend on the balance

of the capital value. The change may be greater than to the next grade above or below, and is fixed by arbitration if the city and company cannot agree and thereafter can be changed at the end of any six months. In order to prevent the winter months, when there is smaller traffic and larger expense, from handicapping the experiment, it is provided that a larger amount of the interest and dividend payments and taxes shall be apportioned to the summer months: 6 per cent is apportioned to February, 7 per cent to January and March, 8 per cent to April, November and December, 9 per cent to May, June, September, and October and 10 per cent to the remaining two months of July and August.

(12) The company alone can initiate the extensions. The city has a right to veto and the Commissioner can spend for auditing and engineering in connection with extensions, a sum not to exceed 1 per cent of their cost in addition to the regular allowance for his office. Careful provision is made to prevent the inclusion in so-called capital value of any extensions in the suburbs, unless approved by the city and subject always to the same safeguards as with regard to extensions within the city.

(13) If the city shall secure the legal right from the State Legislature, it may, on six months' notice, purchase the entire system at any time on paying the then capital value, and in addition 10 per cent on the excess of capital value above debts. The city also has the right, any time after January 1st, 1918, to grant to any other company the right to purchase; but such company must agree to a smaller return on its capital value (less debts) by at least one-quarter of one per cent. Moreover, such a bidder must deposit $50,000 as guarantee of good faith; and if the old company bids as low, it shall be given the preference. If the city has not purchased before the expiration of the 25 year grant in 1934, it may then purchase without regard to the capital value, which includes a certain amount of franchise value. Arbitration shall then fix the price, which will be the physical value less depreciation and plus ten per cent. No allow-

ance is then to be made for franchises or privileges. But unfortunately no exclusion is specifically made of goodwill or growing value. Furthermore, no limit is placed upon the amount of overhead charges that may be included by the arbitrators in fixing physical value. These are grave omissions.

(14) If the city, at the end of ten years, does not renew the grant, there being then at least 15 years of unexpired franchise, the company may at once charge for the rest of the grant the maximum rate of fare; but all excess above the six per cent on stock and the interest on the debt must go to cancelling the indebtedness and creating a sinking fund to reduce the capital value, and if the city buys the property or allows a licensee to buy, only the capital value as above reduced shall be paid for.

Some concluding paragraphs were drafted carefully with a view to preventing litigation in case any of the provisions of the ordinance (*e. g.* that as to the City Commissioner) should be held invalid.

Two strong arguments were used against the above settlement. First, that the valuation was too high. Second, that the Cleveland Railway Company, which was to receive the franchise, had publicly announced that even the maximum fare was too low; hence it would be led to prevent a fair trial by pride of opinion as well as by the financial interest in high fares on the part of other companies in which the stockholders had holdings. It was also urged that, so far from having reached a definitive settlement, there would be more politics than ever in the matter and that there were grave dangers of an increase of fare by the Council above the maximum without consent of the people. On the other hand, it was urged that the people were tired of the fight and that a just settlement had been reached.

Since the possibility of low fare in Cleveland, as elsewhere, is indissolubly bound up with the question of the allowance of capital value upon which the reasonable profit of six per cent or five and three-quarters per cent is to be earned, a

searching examination of the Tayler valuation would have to be made before passing judgment on Mayor Johnson's strenuous opposition to the final settlement. Without entering on this, it suffices now to say that Judge Tayler valued the 229 miles of the old company as follows: —

Physical property	$12,612,000 00
Paving . .	1,721,000.00
Overhead charges (22.17%) .	3,177,305.64
	$17,510,305 64
Franchises . .	3,616,843.89
	$21,127,149 53

The reasons urged by the city for rejecting the paving as a payment for the franchise now bought back have already been given in essentials by the writer.[1] At the autumn hearings the city sought to show that the physical property was not sufficiently depreciated. Track, for instance, was given a life of twenty years, while twelve to fifteen years seemed nearer right. It was also urged at great length that the franchises by reason of competition and of the fare requirements in the suburbs were worth $3,000,000 less than allowed by the court.

The valuation finally reached was almost precisely the same as would have been attained by accepting the agreement between Messrs. Goff and Johnson of April 1908 and (as usual in receiverships) not allowing dividends during the court's management. The Judge refused to change the valuation which Mr. Johnson then accepted as a compromise to hasten transfer of the property to a holding company pledged to low fares and municipal ownership. All sides agreed, however, that Judge Tayler was the fairest judge that could have been selected. His decision that the purchasers of stock in the smaller or Forest City Company and those who had bought under a guarantee of par value from the so-called stock exchange prior to the receivership,

[1] See Quarterly Journal of Economics, August, 1908, pp. 543–575.

should be given par for their stock, was a distinct vindication for Mayor Johnson. The latter's statement that he considered these obligations as sacred as a gambler's debt had been absolutely misinterpreted, by some honestly and by others maliciously, as meaning that he considered them of light value. It is now recognized that he held them of the highest importance and secured the endorsement of Judge Tayler to that effect.

Two questions confront the people of Cleveland to-day: first, is the settlement really a settlement; and second, will the fare, after the first eight or ten months, remain at the present point ?

It is significant that the company had not been operating a week under the new franchise before the annexation of the suburb of Collinwood on the east precipitated a new question: Should the five cent rate of fare continue, as required by the ordinance, in all districts (barring a few specially provided for) outside of the city limits as these limits existed when the ordinance was drawn? The question has already aroused much excitement and contention. On the one hand, it is claimed that for social and other reasons fares should be uniform throughout the city and all suburbs that may be annexed in the years to come. On the other hand it is urged that the fare should be much lower for the immense majority who confine their rides to the recent city limits, which are about 5 to 6 miles from the heart of the city, than for the few (perhaps 10 per cent) who may wish the much farther ride into the distant suburbs.

On top of this comes another question: Whether the Council can, with the consent of the company, extend the limits of three cent fare by mere amendment, or whether, as seems likely, it will be necessary to have a new ordinance approved by referendum.

The other question most in the public mind just now is whether the present three cent fare inside the city limits (and in the two specified suburbs) with five cent fare in the suburbs generally, and a cent for a transfer, can continue after this year. The present fare is an average of approxi-

mately 3½ cents for passengers. If this fare had been in force on the traffic in the calendar year 1909, and with the requirements of the existing franchise with respect to the payment of the Commissioner and allowance for maintenance, etc., there would have been a deficit, on the 144,000,000 passengers, of about $200,000. If the service is not much increased in 1910 and if the traffic, responding to the reduction in fares and the growth of business, increases 8 per cent, which was the average increase during the 12 years preceding the recent depression, there would be no deficit. This assumes that the chief increase of interest charges during this year will be on account of the equipment of the present cars with the pay-enter devices, whose increased earnings in the better collection of fares are expected to cover the increased expense entailed by their use. Other expenditures of the company for more cars for the rush hours, and for the beginning of a new power house, will not materially increase the interest charges this year, while next year's increase of business may take care of the increased interest charges then accruing from the new investment. If the contention of the city administration even in respect to franchise values alone had been sustained there would have been in 1909, notwithstanding Judge Tayler's full allowance for pavement, track, cars, overhead charges, $200,000 of increased balance to profit account and the possibility of a higher fare would now be remote.

The real danger in the situation lies in two things. First there is the natural interest and the emphatically expressed opinion of the officers of the company against even a four cent fare. Secondly there is the ease with which a surplus can be turned into a deficit by over-service in the middle of the day and late at night, and by breaking down the present zone system about five miles from the heart of the city. During all the receivership, over half the lines of the city had an average of only about 20 passengers per car outside of the rush hours. They seat from 30 to 45 passengers; half a dozen more generally like to stand and smoke on the front and rear platforms. Consequently, on most

of the lines just mentioned, there is no need of increasing the schedule for several years except in the rush hours, when, if necessary, men, even at a much higher rate of pay per hour, could well be employed as extra train crews. Whether, however, the management will try to do this, or get up the popular clamor that can easily be raised, no matter how few passengers are now in each car, for more cars on any line; and whether, if increased service outside of the rush hours is attempted, the Commissioner and the City Council will have the strength and wisdom to prevent it, as they have the full legal right to do, — are among the most serious problems of the near future. Experience of the receivership, however, shows that if these problems are properly met, the service in Cleveland,which is already better than in most cities, can be further extended in the rush hours, where improvements are really needed, and still permit the Cleveland Railway Company to pay the average rate of about $5\frac{3}{4}$ per cent on its entire so-called capital value. Anyway, Cleveland has to-day a lower average charge per passenger than in any other American city, and will have a lower charge even under the maximum rates of fare, which would yield $750,000 more than the present rates. The control of service on the part of the city government is absolutely unequalled anywhere else between the two oceans; and the present character of the cars and of the service in general compare favorably with any of Cleveland's sister cities.

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